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TO: Christopher Galla
Genuine Parts Company
2999 Wildwood Pkwy
Atlanta, GA 30339-8580

RE: **Process Served in Texas**

FOR: GENUINE PARTS COMPANY (Domestic State: GA)

**Service of Process
Transmittal**

03/09/2022
CT Log Number 541195070

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: CHERRY HAGGERTY // To: GENUINE PARTS COMPANY

DOCUMENT(S) SERVED: Petition

COURT/AGENCY: 125th Judicial District Court of Harris County, TX
Case # 202209904

NATURE OF ACTION: Personal Injury - Vehicle Collision - 03/22/2021

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Regular Mail on 03/09/2022 postmarked on 03/07/2022

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): Derrick G. Parker
D.G. PARKER LAW FIRM, PLLC
2900 Smith St., Suite 200
Houston, TX 77006
713-800-9433

ACTION ITEMS: CT has retained the current log, Retain Date: 03/09/2022, Expected Purge Date: 03/14/2022

Image SOP

Email Notification, Kathleen Eidbo KATHLEEN_EIDBO@GENPT.COM

Email Notification, Patsy Green patsy_green@genpt.com

Email Notification, Ernie Wetzler Ernie_Wetzler@genpt.com

Email Notification, Norma Pittillo norma_pittillo@genpt.com

Email Notification, Christopher Galla chris_galla@genpt.com

REGISTERED AGENT ADDRESS: C T Corporation System
1999 Bryan Street
Suite 900
Dallas, TX 75201
866-665-5799



TO: Christopher Galla
Genuine Parts Company
2999 Wildwood Pkwy
Atlanta, GA 30339-8580

RE: **Process Served in Texas**

FOR: GENUINE PARTS COMPANY (Domestic State: GA)

**Service of Process
Transmittal**

03/09/2022
CT Log Number 541195070

SouthTeam2@wolterskluwer.com

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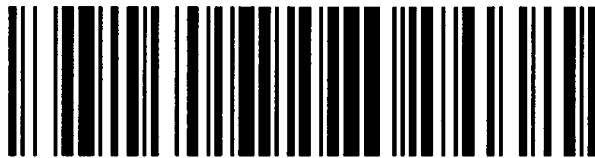
Service of Process

Date: Wed, Mar 9, 2022

Location: TX

Job ID: 147025-24

Method of Service: Regular Mail



D.G. PARKER LAW FIRM, PLLC

Attorneys and Counselors at Law

2900 Smith St., Suite 200
Houston, Texas 77006

NORTH HOUSTON 77006

7 MAR 2022 PM 3 L



827711111091127



CT Corporation System
1999 Bryan St., Ste. 900
Dallas, TX 75201

75201-428499



CAUSE NO. 202209904

CHERRY HAGGERTY

§

IN THE DISTRICT COURT OF

PLAINTIFF,

§

V.

§

HARRIS COUNTY, TEXAS

GENUINE PARTS COMPANY AND,
AYANNAH JUAH MONDUBUE

§
§
§

DEFENDANTS.

§

125th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Cherry Haggerty, hereinafter called Plaintiff, complaining of and about Genuine Parts Company and Ayannah Juah Mondubue, hereinafter called Defendants, and for cause of action show unto the Court the following:

I. DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

II. PARTIES AND SERVICE

1. Plaintiff, Cherry Haggerty, is an individual resident of Harris County, Texas.
2. Defendant, Genuine Parts Company is a company doing business in the State of Texas and can be served with process through its registered agent, CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

3. Defendant, Ayannah Juah Mondubue is an individual who resides in Fulton County, Georgia. Defendant may be served with process at his place of residence at 1165 Sanctuary Pkwy, Alpharetta, GA 30009 or wherever he may be found.

III. JURISDICTION AND VENUE

1. The subject matter in controversy is within the jurisdictional limits of this court.
2. This court has jurisdiction over the parties because Plaintiff resides in Texas and the accident occurred in Harris County, Texas.
3. Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

IV. FACTS

1. On May 22, 2021, Defendant Ayannah Juah Mondubue was in Harris County performing business duties for his employer Genuine Parts Company. Defendant Ayannah Juah Mondubue was traveling southbound in the outside lane in the 20300 block of Holzwarth Road and attempted to change lanes into the center lane to make a left turn and crashed into Plaintiff's vehicle as Plaintiff was traveling in the center lane. The impact caused Plaintiff to sustain serious injuries.

V. RESPONDEAT SUPERIOR

1. At the time of the collision, Defendant Ayannah Juah Mondubue was acting in the scope of his employment with Defendant Genuine Parts Company. Defendant Ayannah Juah Mondubue was engaged in the furtherance of Defendant's business at the time of the collision, which caused Plaintiff serious injuries. Plaintiff invokes the doctrine of respondent superior against Defendant Genuine Parts Company.

VI. PLAINTIFF'S NEGLIGENCE CLAIM AGAINST DEFENDANTS

1. Defendants had a duty to exercise the degree of care that a reasonable careful person would use to avoid harm to others under circumstances similar to those described herein.

2. Plaintiff's injuries were proximately caused by Defendants' negligent, careless and reckless disregard of said duty.

3. Defendants' negligent, careless, and reckless conduct consisted of, but is not limited to, the following acts and omissions:

- A. Defendant failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. Defendant failed to stop;
- C. Defendant failed to give his full time and attention to operating his vehicle;
- D. Defendant failed to see what was there to be seen;
- E. Defendant drove in a distracted and unsafe manner;
- F. Defendant failed to apply his brakes in a proper and timely manner to avoid colliding with the Plaintiff;
- G. Defendant failed to turn his vehicle, or otherwise take appropriate action to avoid striking the Plaintiff; and
- H. Defendant failed to use ordinary and due care in operating his vehicle.

VII. NEGLIGENCE PER SE OF DEFENDANT

1. Defendant Ayannah Juah Mondubue's conduct described herein also constitutes

an unexcused breach of duty imposed by Section 544.007 of the Texas Transportation Code. Plaintiff is a member of the class that this Section of the Texas Transportation Code was designed to protect.

2. Defendant Ayannah Juali Mondubue's unexcused breach of the duties imposed by Texas Transportation Code Section 544.007 proximately caused the Plaintiff's injuries described herein.

VIII. PLAINTIFF'S DAMAGES

1. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff suffered serious injuries and incurred the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services.
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Mental anguish in the past;
- H. Mental anguish in the future;
- I. Loss of earning capacity in the past;
- J. Loss of earning capacity, which will, in all probability, be incurred in the future.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, for damages in an amount within the jurisdictional limits of the Court; excluding interest, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity. As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiff's counsel states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiff's counsel states that Plaintiff seeks monetary relief over \$250,000.00 but not more than \$1,000,000.00. The amount of monetary relief actually awarded, however, will ultimately be determined by a jury.

Respectfully submitted,

D.G. PARKER LAW FIRM, PLLC

/s/ Derrick G. Parker

Derrick G. Parker
2900 Smith St., Suite 200
Texas State Bar No. 24044928
Houston, Texas 77006
(713) 800-9433 Telephone
(713) 821-9432 Fax
derrick@dgparkeralaw.com

ATTORNEY FOR PLAINTIFF

GPC.14939

CAUSE NO. 2022-09904**CHERRY HAGGERTY,**
Plaintiff,

§

IN THE DISTRICT COURT

§

V.

§

125th JUDICIAL DISTRICT

§

GENUINE PARTS COMPANY, AND
AYANNAH JUAH MONDUBUE,
Defendants.

§

HARRIS COUNTY, TEXAS**DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW **GENUINE PARTS COMPANY**, Defendant named in the above entitled and numbered cause, and files this their Original Answer and Affirmative Defenses, and for same would respectfully show unto the Court as follows:

I.**GENERAL DENIAL**

Subject to such stipulations as may hereafter be made, Defendant asserts a general denial as is authorized by Rule 92 of the **TEXAS RULES OF CIVIL PROCEDURE**, and Defendant respectfully demands that Plaintiff be required to prove charges and allegations against Defendant by a preponderance of the evidence as is required by the Constitution and law of the State of Texas.

II.**AFFIRMATIVE DEFENSES***First Affirmative Defense*

As a first separate and affirmative defense to Plaintiff's Original Petition, and all subsequently filed supplemental and/or amended petitions, Defendant asserts at the time and on the occasion in question, the claimed injuries and corresponding damages complained of therein were proximately caused, in whole or in part, by the acts, omissions, fault, negligence, negligence per se, responsibility, or other conduct, on the part of Plaintiff, including but not limited to failing to keep proper lookout, failing to operate a motor vehicle as a prudent person, failing to take proper

DEFENDANT'S ORIGINAL ANSWER

Page 1

evasive action, failing to control speed, failing to timely apply the brakes, and other negligent conduct or omissions.

Second Affirmative Defense

As a second separate and affirmative defense to Plaintiff's Original Petition, and all subsequently filed supplemental and/or amended petitions, Defendant asks the Court and jury to compare the relative percentages of fault of Plaintiff, all other parties to this lawsuit, and any negligent, culpable, and/or strictly liable third-party or parties and/or any other responsible third-party or parties, whether a party to this suit or otherwise, with that of Defendants, if any, pursuant to the doctrine of proportionate responsibility. *See TEXAS CIVIL PRACTICE & REMEDIES CODE § 33.001, et seq.* Such other responsible third-parties include those who may be responsible in whole or in part for the injuries and/or damages alleged by Plaintiff and/or for which a responsibility submission would be proper pursuant to TEXAS CIVIL PRACTICE & REMEDIES CODE §33.001, *et seq.*

Third Affirmative Defense

As a third separate and affirmative defense to Plaintiff's Original Petition, and all subsequently filed supplemental and/or amended petitions, Defendant asserts that Plaintiff failed, in whole or in part, to mitigate or reasonably avoid his damages, if any, and Defendant is not responsible for damages, if any, resulting from the Plaintiff's failure to act with ordinary prudence to eliminate or reduce the effects of their damages, if any, that resulted from the events in question.

Fourth Affirmative Defense

As a fourth separate and affirmative defense to Plaintiff's Original Petition, and all subsequently filed supplemental and/or amended petitions, Defendant asserts that some and/or all of the injuries and conditions of which Plaintiff complains are due, in whole or in part, to pre-

existing and degenerative injuries and conditions, wholly unrelated to the incident at issue and for which Defendant is not responsible.

Fifth Affirmative Defense

As a fifth separate and affirmative defense to Plaintiff's Original Petition, and all subsequently filed supplemental and/or amended petitions, Defendant asserts that any award to Plaintiff should not include pre-judgment interest because any delay in the trial of the case has not been caused by Defendant. Accordingly, an award of pre-judgment interest would be unreasonable and improper given the circumstances of the case.

III.
SECTION 18.091

Defendant invokes Section 18.091 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE. To the extent Plaintiff seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value or loss of inheritance, the evidence to prove such loss must be presented in the form of net loss after reduction of income tax payments or unpaid tax liability. Defendant further requests the Court to instruct the jury as to whether any recovery for compensatory damages sought by Plaintiff is subject to federal or state income taxes.

IV.
SECTION 41.0105

Defendant invokes Section 41.0105 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE. To the extent Plaintiff seeks recovery of medical or healthcare expenses incurred, the evidence to prove such loss must be limited to the amount actually paid or incurred by or on behalf of Plaintiff. Defendant further requests the Court to instruct the jury as to whether any recovery for medical or healthcare expenses sought by Plaintiff are limited to the amount actually paid or incurred by or on behalf of Plaintiff.

V.
RIGHT TO AMEND

Defendant respectfully reserves the right to Amend this Answer to Plaintiff's allegations, amendments, supplement or other allegations after they have had an opportunity to more closely investigate the claims, as is their right and privilege under the TEXAS RULES OF CIVIL PROCEDURE and the laws of the State of Texas.

VI.
NOTICE TO PLAINTIFF

Defendant hereby gives notice of the intent to utilize items produced in discovery in the trial of this matter and the authenticity of said items is self-proven under Rule 193.7 of the TEXAS RULES OF CIVIL PROCEDURE.

VII.
JURY DEMAND

In accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant has demanded a trial by jury, all fees having previously been paid or are being contemporaneously paid with the filing of this pleading.

WHEREFORE, PREMISES CONSIDERED, Defendant, GENUINE PARTS COMPANY, pray that the Plaintiff take nothing by this suit, that Defendant go hence with its costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P



BRIAN G. CANO

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bcano@feesmith.com

STEPHEN M. MENGIS

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2777 Allen Parkway, Suite 800

Houston, Texas 77019

713-362-8300

713-362-8302 [Fax]

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been electronically served upon all attorneys of record in this cause of action on the 1st day of April, 2022.



BRIAN G. CANO

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 63182790

Status as of 4/1/2022 12:58 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Derrick G.Parker		derrick@dgparkerlaw.com	4/1/2022 12:08:25 PM	SENT
Stephen Mengis		smengis@feesmith.com	4/1/2022 12:08:25 PM	SENT
Brian Cano		bcano@feesmith.com	4/1/2022 12:08:25 PM	SENT
Megan Moore		mmoore@feesmith.com	4/1/2022 12:08:25 PM	SENT
Gia Walker		gwalker@feesmith.com	4/1/2022 12:08:25 PM	SENT

GPC.14939

CAUSE NO. 2022-09904

CHERRY HAGGERTY,
Plaintiff,

§

IN THE DISTRICT COURT

§

V.

§

125th JUDICIAL DISTRICT

§

GENUINE PARTS COMPANY, AND
AYANNAH JUAH MONDUBUE,
Defendants.

§

HARRIS COUNTY, TEXAS**NOTICE OF FILING NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

PLEASE TAKE NOTICE, the Defendant, **GENUINE PARTS COMPANY**, filed the Notice of Removal in the United States District Court for the Southern District of Texas – Houston Division, attached hereto as Exhibit A. This Notice is hereby provided in accordance with 28 U.S.C. 1446(d), pursuant to which this action in the 125th District Court shall proceed no further, unless or until the case is remanded from the United States District Court for the Southern District of Texas – Houston Division.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P

BRIAN G. CANO

State Bar No. 24045613

STEPHEN M. MENGIS

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Facsimile: 713-362-8302

bcano@feesmith.comsmengis@feesmith.com**ATTORNEYS FOR DEFENDANT
GENUINE PARTS COMPANY**

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing document was electronically served and that the electronic transmission was reported complete on the 7th day of April, 2022.



BRIAN G. CANO

Automated Certificate of eService

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Giovanna Walker on behalf of Brian Cano
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gwalker@feesmith.com
Envelope ID: 63363338
Status as of 4/7/2022 12:54 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
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Megan Moore		mmoore@feesmith.com	4/7/2022 12:51:05 PM	SENT
Gia Walker		gwalker@feesmith.com	4/7/2022 12:51:05 PM	SENT